

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ACI WORLDWIDE CORP.,

Plaintiff,

vs.

**MASTERCARD TECHNOLOGIES, LLC,
and MASTERCARD INTERNATIONAL,
INCORPORATED,**

Defendants.

8:14CV31

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Statement of Objection to Judge Gossett's January 19, 2016 Order and Request for Oral Argument (Filing No. 301) submitted by nonparty Baldwin, Hackett, & Meeks, Inc.'s ("BHMI") and the Motion for Expedited Ruling on BHMI's Objection (Filing No. 304) submitted by Plaintiff ACI Worldwide Corp.'s ("ACI"). For the reasons discussed below, the Motion for Expedited Ruling will be granted, the Objection will be overruled, the Request for Oral Argument will be denied, and the stay of Judge Gossett's Order (Filing No. 296) will be lifted.

BACKGROUND

On February 25, 2015, Judge Gossett entered a protective order ("Protective Order") (Filing No. 123), which, among other things, provided that documents obtained through discovery in this action would not be used in a related action pending in state court.¹ The Protective Order stated that it might be modified at a later date upon a showing of "good cause." (Filing No. 123 ¶ 20.) On January 19, 2016, Judge Gossett entered an order (Filing No. 290) ("January 19th Order") modifying the Protective Order

¹ District Court of Douglas County, Nebraska, Case No. 12-3098, *ACI Worldwide Corp. v. BHMI, Inc., et al.*, the Hon. J. Russell Derr presiding.

to allow ACI to offer for *in camera* review in state court certain evidence that ACI claimed was recently discovered. BHMI subsequently filed its Objection.

STANDARD

When a party objects to a magistrate judge's order on a nondispositive pretrial matter, a district court may set aside any part of the order shown to be clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). “A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Chase v. Comm'r of Internal Revenue*, 926 F.2d 737, 740 (8th Cir.1991) (internal quotation marks omitted). “An order is contrary to law if it fails to apply or misapplies relevant statutes, case law, or rules of procedure.” *Haviland v. Catholic Health Initiatives-Iowa, Corp.*, 692 F. Supp. 2d 1040 (S.D. Iowa 2010).

DISCUSSION

The Court conducted a review of the record and relevant filings and determined that the January 19th Order is neither clearly erroneous nor contrary to law. Rather, the January 19th Order is narrowly tailored and appropriate in light of the facts on the record. Contrary to BHMI's argument, the January 19th Order neither presents issues of comity nor attempts to preempt Judge Derr's authority in the state court action. Judge Gossett explained that his January 19th Order merely allowed ACI to offer certain documents to Judge Derr for an *in camera* review in Judge Derr's discretion. As Judge Gossett stated in an earlier order in this action, “the state court judge must handle his proceedings as he sees fit and should not feel bound by anything happening in the federal court action.” (Filing No. 299 at 2.) This Court concurs. Accordingly,

IT IS ORDERED:

1. Baldwin, Hackett, & Meeks, Inc.'s Statement of Objection to Judge Gossett's January 19, 2016 Order (Filing No. 301) is overruled;
2. Baldwin, Hackett, & Meeks, Inc.'s Request for Oral Argument (Filing No. 301) is denied;
3. Plaintiff ACI Worldwide's Motion for Expedited Ruling on BHMI's Objection (Filing No. 304) is granted; and
4. The stay of the January 19th Order (Filing No. 296) is lifted.

Dated this 1st day of February, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge